

110TH CONGRESS
2D SESSION

H. R. 2342

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 13), 2008

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To direct the President to establish a National Integrated Coastal and Ocean Observation System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ENHANCING CLIMATE CHANGE PREDICTIONS.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “National Integrated Coastal and Ocean Observation Act
4 of 2008”.

5 (b) PURPOSES.—The purposes of this section are the
6 following:

7 (1) Establish a National Integrated Coastal and
8 Ocean Observation System comprised of Federal and
9 non-Federal components, coordinated at the national
10 level by the National Ocean Research Leadership
11 Council and at the regional level by a network of Re-
12 gional Information Coordination Entities, that in-
13 cludes in situ, remote, and other coastal and ocean
14 observations, technologies, and data management
15 and communication systems, to gather specific coast-
16 al and ocean data variables and to ensure the timely
17 dissemination and availability of usable observation
18 data—

19 (A) to support national defense, marine
20 commerce, energy production, scientific re-
21 search, ecosystem-based marine and coastal re-
22 source management, weather and marine fore-
23 casting, public safety and public outreach train-
24 ing and education; and

25 (B) to promote greater public awareness
26 and stewardship of the Nation’s ocean, coastal,

1 and Great Lakes resources and the general
2 public welfare.

3 (2) Improve the Nation’s capability to measure,
4 track, explain, and predict events related directly
5 and indirectly to weather and climate change, nat-
6 ural climate variability, and interactions between the
7 oceanic and atmospheric environments, including the
8 Great Lakes.

9 (3) Authorize activities to promote basic and
10 applied research to develop, test, and deploy innova-
11 tions and improvements in coastal and ocean obser-
12 vation technologies, modeling systems, and other sci-
13 entific and technological capabilities to improve our
14 conceptual understanding of weather and climate,
15 ocean atmosphere dynamics, global climate change,
16 and physical, chemical, and biological dynamics of
17 the ocean and coastal and Great Lakes environ-
18 ments.

19 (c) DEFINITIONS.—In this section:

20 (1) COUNCIL.—The term “Council” means the
21 National Ocean Research Leadership Council re-
22 ferred to in section 7902 of title 10, United States
23 Code.

1 (2) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the National
3 Oceanic and Atmospheric Administration.

4 (3) FEDERAL ASSETS.—The term “Federal as-
5 sets” means all relevant nonclassified civilian coastal
6 and ocean observations, technologies, and related
7 modeling, research, data management, basic and ap-
8 plied technology research and development, and pub-
9 lic education and outreach programs, that are man-
10 aged by member agencies of the Council.

11 (4) INTERAGENCY WORKING GROUP.—The term
12 “Interagency Working Group” means the Inter-
13 agency Working Group on Ocean Observations as es-
14 tablished by the U.S. Ocean Policy Committee Sub-
15 committee on Ocean Science and Technology pursu-
16 ant to Executive Order No. 13366 signed December
17 17, 2004.

18 (5) NON-FEDERAL ASSETS.—The term “non-
19 Federal assets” means all relevant coastal and ocean
20 observations, technologies, related basic and applied
21 technology research and development, and public
22 education and outreach programs that are integrated
23 into the System and are managed through States,
24 regional organizations, universities, nongovernmental
25 organizations, or the private sector.

1 (6) REGIONAL INFORMATION COORDINATION
2 ENTITIES.—

3 (A) IN GENERAL.—The term “Regional In-
4 formation Coordination Entity”, subject to sub-
5 paragraphs (B) and (C), means an organiza-
6 tional body that is certified or established by
7 the lead Federal agency designated in sub-
8 section (d)(3)(C)(iii) and coordinating State,
9 Federal, local, and private interests at a re-
10 gional level with the responsibility of engaging
11 the private and public sectors in designing, op-
12 erating, and improving regional coastal and
13 ocean observing systems in order to ensure the
14 provision of data and information that meet the
15 needs of user groups from the respective re-
16 gions.

17 (B) INCLUDED ASSOCIATIONS.—Such term
18 includes Regional Associations as described by
19 the System Plan.

20 (C) LIMITATION.—Nothing in this section
21 shall be construed to invalidate existing certifi-
22 cations, contracts, or agreements between Re-
23 gional Associations and other elements of the
24 System.

1 (7) SYSTEM.—The term “System” means the
2 National Integrated Coastal and Ocean Observation
3 System established under subsection (d).

4 (8) SYSTEM PLAN.—The term “System Plan”
5 means the plan contained in the document entitled
6 “Ocean.US Publication No. 9, The First Integrated
7 Ocean Observing System (IOOS) Development
8 Plan”.

9 (d) NATIONAL INTEGRATED COASTAL AND OCEAN
10 OBSERVING SYSTEM.—

11 (1) ESTABLISHMENT.—The President, acting
12 through the Council, shall establish a National Inte-
13 grated Coastal and Ocean Observation System to
14 fulfill the purposes set forth in subsection (b) and
15 the System plan and to fulfill the Nation’s inter-
16 national obligations to contribute to the global earth
17 observation system of systems and the global ocean
18 observing system.

19 (2) SUPPORT OF PURPOSES.—The head of each
20 agency that is a member of the Interagency Working
21 Group shall support the purposes of this section.

22 (3) AVAILABILITY OF DATA.—The head of each
23 Federal agency that has administrative jurisdiction
24 over a Federal asset shall make available data that
25 are produced by that asset and that are not other-

1 wise restricted for integration, management, and dis-
2 semination by the System.

3 (4) ENHANCING ADMINISTRATION AND MAN-
4 AGEMENT.—The head of each Federal agency that
5 has administrative jurisdiction over a Federal asset
6 may take appropriate actions to enhance internal
7 agency administration and management to better
8 support, integrate, finance, and utilize observation
9 data, products, and services developed under this
10 section to further its own agency mission and re-
11 sponsibilities.

12 (5) PARTICIPATION IN REGIONAL INFORMATION
13 COORDINATION ENTITY.—The head of each Federal
14 agency that has administrative jurisdiction over a
15 Federal asset may participate in regional informa-
16 tion coordination entity activities.

17 (6) NON-FEDERAL ASSETS.—Non-Federal as-
18 sets shall be coordinated by the Interagency Work-
19 ing Group or by Regional Information Coordination
20 Entities.

21 (e) POLICY OVERSIGHT, ADMINISTRATION, AND RE-
22 GIONAL COORDINATION.—

23 (1) NATIONAL OCEAN RESEARCH LEADERSHIP
24 COUNCIL.—The National Ocean Research Leader-
25 ship Council shall be responsible for establishing

1 broad coordination and long-term operations plans,
2 policies, protocols, and standards for the System
3 consistent with the policies, goals, and objectives
4 contained in the System Plan, and coordination of
5 the System with other earth observing activities.

6 (2) INTERAGENCY WORKING GROUP.—The
7 Interagency Working Group shall, with respect to
8 the System, be responsible for—

9 (A) implementation of operations plans
10 and policies developed by the Council;

11 (B) development of and transmittal to
12 Congress at the time of submission of the
13 President’s annual budget request an annual
14 coordinated, comprehensive System budget;

15 (C) identification of gaps in observation
16 coverage or needs for capital improvements of
17 both Federal assets and non-Federal assets;

18 (D) establishment of data management
19 and communication protocols and standards;

20 (E) establishment of required observation
21 data variables;

22 (F) development of certification standards
23 for all non-Federal assets or Regional Informa-
24 tion Coordination Entities to be eligible for in-
25 tegration into the System;

1 (G) subject to the availability of appropria-
2 tions, establish through one or more partici-
3 pating Federal agencies, in consultation with
4 the System Advisory Committee established
5 under paragraph (5), a competitive matching
6 grant or other program to promote research
7 and development of innovative observation tech-
8 nologies including testing and field trials; and

9 (H) periodically review and recommend to
10 the Council revisions to the System Plan.

11 (3) LEAD FEDERAL AGENCY.—The Adminis-
12 trator shall function as the lead Federal agency for
13 the System. The Administrator may establish an
14 Interagency Program Coordinating Office to facili-
15 tate the Administrator’s responsibilities as the lead
16 Federal agency for System oversight and manage-
17 ment. The Administrator shall—

18 (A) implement policies, protocols, and
19 standards established by the Council and dele-
20 gated by the Interagency Working Group;

21 (B) promulgate regulations to integrate
22 the participation of non-Federal assets into the
23 System and enter into and oversee contracts
24 and agreements with Regional Information Co-
25 ordination Entities to effect this purpose;

1 (C) implement a competitive funding proc-
2 ess for the purpose of assigning contracts and
3 agreements to Regional Information Coordina-
4 tion Entities;

5 (D) certify or establish Regional Informa-
6 tion Coordination Entities to coordinate State,
7 Federal, local, and private interests at a re-
8 gional level with the responsibility of engaging
9 private and public sectors in designing, oper-
10 ating, and improving regional coastal and ocean
11 observing systems in order to ensure the provi-
12 sion of data and information that meet the
13 needs of user groups from the respective re-
14 gions;

15 (E) formulate a process by which gaps in
16 observation coverage or needs for capital im-
17 provements of Federal assets and non-Federal
18 assets of the System can be identified by the
19 Regional Information Coordination Entities, the
20 Administrator, or other members of the System
21 and transmitted to the Interagency Working
22 Group;

23 (F) be responsible for the coordination,
24 storage, management, and dissemination of ob-

1 servation data gathered through the System to
2 all end-user communities;

3 (G) implement a program of public edu-
4 cation and outreach to improve public aware-
5 ness of global climate change and effects on the
6 ocean, coastal, and Great Lakes environment;
7 and

8 (H) report annually to the Council through
9 the Interagency Working Group on the accom-
10 plishments, operational needs, and performance
11 of the System to achieve the purposes of this
12 title and the System Plan.

13 (4) REGIONAL INFORMATION COORDINATION
14 ENTITY.—To be certified or established under para-
15 graph (3)(D), a Regional Information Coordination
16 Entity must be certified or established by contract
17 or agreement by the Administrator, and must agree
18 to—

19 (A) gather required System observation
20 data and other requirements specified under
21 this section and the System plan;

22 (B) identify gaps in observation coverage
23 or needs for capital improvements of Federal
24 assets and non-Federal assets of the System,

1 and transmit such information to the Inter-
2 agency Working Group via the Administrator;

3 (C) demonstrate an organizational struc-
4 ture and strategic operational plan to ensure
5 the efficient and effective administration of pro-
6 grams and assets to support daily data observa-
7 tions for integration into the System;

8 (D) comply with all financial oversight re-
9 quirements established by the Administrator,
10 including requirements relating to audits; and

11 (E) demonstrate a capability to work with
12 other governmental and nongovernmental enti-
13 ties at all levels to identify and provide informa-
14 tion products of the System for multiple users
15 within the service area of the Regional Informa-
16 tion Coordination Entities and otherwise.

17 (5) SYSTEM ADVISORY COMMITTEE.—

18 (A) IN GENERAL.—The Administrator
19 shall establish a System Advisory Committee,
20 which shall provide advice as may be requested
21 by the Administrator or the Interagency Work-
22 ing Group.

23 (B) PURPOSE.—The purpose of the Sys-
24 tem Advisory Committee is to advise the Ad-

1 administrator and the Interagency Working Group
2 on—

3 (i) administration, operation, manage-
4 ment, and maintenance of the System, in-
5 cluding integration of Federal and non-
6 Federal assets and data management and
7 communication aspects of the System, and
8 fulfillment of the purposes specified under
9 subsection (b);

10 (ii) expansion and periodic moderniza-
11 tion and upgrade of technology components
12 of the System;

13 (iii) identification of end-user commu-
14 nities, their needs for information provided
15 by the System, and the System's effective-
16 ness in disseminating information to end-
17 user communities and the general public;
18 and

19 (iv) any other purpose identified by
20 the Administrator or the Interagency
21 Working Group.

22 (C) MEMBERS.—

23 (i) IN GENERAL.—The System Advi-
24 sory Committee shall be composed of mem-
25 bers appointed by the Administrator. Mem-

1 bers shall be qualified by education, train-
2 ing, and experience to evaluate scientific
3 and technical information related to the
4 design, operation, maintenance, or use of
5 the System, or use of data products pro-
6 vided through the System.

7 (ii) TERMS OF SERVICE.—Members
8 shall be appointed for 3-year terms, renew-
9 able once. A vacancy appointment shall be
10 for the remainder of the unexpired term of
11 the vacancy, and an individual so ap-
12 pointed may subsequently be appointed for
13 2 full 3-year terms if the remainder of the
14 unexpired term is less than one year.

15 (iii) CHAIRPERSON.—The Adminis-
16 trator shall designate a chairperson from
17 among the members of the System Advi-
18 sory Committee.

19 (iv) APPOINTMENT.—Members of the
20 System Advisory Committee shall be ap-
21 pointed as special Government employees
22 for purposes of section 202(a) of title 18,
23 United States Code.

24 (D) ADMINISTRATIVE PROVISIONS.—

1 (i) REPORTING.—The System Advisory
2 Committee shall report to the Administrator
3 and the Interagency Working
4 Group, as appropriate.

5 (ii) ADMINISTRATIVE SUPPORT.—The
6 Administrator shall provide administrative
7 support to the System Advisory Committee.
8

9 (iii) MEETINGS.—The System Advisory
10 Committee shall meet at least once
11 each year, and at other times at the call of
12 the Administrator, the Interagency Working
13 Group, or the chairperson.

14 (iv) COMPENSATION AND EXPENSES.—Members of the System Advisory
15 Committee shall not be compensated
16 for service on that Committee, but may be
17 allowed travel expenses, including per diem
18 in lieu of subsistence, in accordance with
19 subchapter I of chapter 57 of title 5,
20 United States Code.

22 (v) EXPIRATION.—Section 14 of the
23 Federal Advisory Committee Act (5 U.S.C.
24 App.) shall not apply to the System Advisory
25 Committee.

1 (6) CIVIL LIABILITY.—For purposes of deter-
2 mining liability arising from the dissemination and
3 use of observation data gathered pursuant to this
4 section, any non-Federal asset or Regional Informa-
5 tion Coordination Entity that is certified under
6 paragraph (3)(D) and that is participating in the
7 System shall be considered to be part of the Na-
8 tional Oceanic and Atmospheric Administration. Any
9 employee of such a non-Federal asset or Regional
10 Information Coordination Entity, while operating
11 within the scope of his or her employment in car-
12 rying out the purposes of this section, with respect
13 to tort liability, is deemed to be an employee of the
14 Federal Government.

15 (f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,
16 AND AGREEMENTS.—

17 (1) IN GENERAL.—The member departments
18 and agencies of the Council, subject to the avail-
19 ability of appropriations, may participate in inter-
20 agency financing and share, transfer, receive, obli-
21 gate, and expend funds appropriated to any member
22 agency for the purposes of carrying out any adminis-
23 trative or programmatic project or activity to further
24 the purposes of this section, including support for
25 the Interagency Working Group, the Interagency Co-

1 ordinating Program Office, a common infrastruc-
2 ture, and integration to expand or otherwise enhance
3 the System.

4 (2) JOINT CENTERS AND AGREEMENTS.—Mem-
5 ber Departments and agencies of the Council shall
6 have the authority to create, support, and maintain
7 joint centers, and to enter into and perform such
8 contracts, leases, grants, and cooperative agreements
9 as may be necessary to carry out the purposes of
10 this section and fulfillment of the System Plan.

11 (g) APPLICATION WITH OTHER LAWS.—Nothing in
12 this section supersedes or limits the authority of any agen-
13 cy to carry out its responsibilities and missions under
14 other laws.

15 (h) REPORT TO CONGRESS.—

16 (1) IN GENERAL.—Not later than two years
17 after the date of enactment of this section, the Ad-
18 ministrator through the Council shall submit to Con-
19 gress a report that describes the status of the Sys-
20 tem and progress made to achieve the purposes of
21 this section and the goals identified under the Sys-
22 tem Plan.

23 (2) CONTENTS.—The report shall include dis-
24 cussion of the following:

1 (A) Identification of Federal and non-Fed-
2 eral assets as determined by the Council that
3 have been integrated into the System, including
4 assets essential to the gathering of required ob-
5 servation data variables necessary to meet the
6 respective missions of Council agencies.

7 (B) A review of procurements, planned or
8 initiated, by each Council agency to enhance,
9 expand, or modernize the observation capabili-
10 ties and data products provided by the System,
11 including data management and communication
12 subsystems.

13 (C) An assessment regarding activities to
14 integrate Federal and non-Federal assets, na-
15 tionally and on the regional level, and discus-
16 sion of the performance and effectiveness of Re-
17 gional Information Coordination Entities to co-
18 ordinate regional observation operations.

19 (D) An evaluation of progress made by the
20 Council to achieve the purposes of this section
21 and the goals identified under the System Plan.

22 (E) Recommendations for operational im-
23 provements to enhance the efficiency, accuracy,
24 and overall capability of the System.

1 (3) BIENNIAL UPDATE.—Two years after the
2 transmittal of the initial report prepared pursuant to
3 this subsection and biennially thereafter, the Admin-
4 istrator, through the Council, shall submit to Con-
5 gress an update of the initial report.

6 (i) PUBLIC-PRIVATE USE POLICY.—The Council
7 shall develop a policy within 6 months after the date of
8 the enactment of this section that defines processes for
9 making decisions about the roles of the Federal Govern-
10 ment, the States, Regional Information Coordination En-
11 tities, the academic community, and the private sector in
12 providing to end-user communities environmental informa-
13 tion, products, technologies, and services related to the
14 System. The Council shall publish the policy in the Fed-
15 eral Register for public comment for a period not less than
16 60 days. Nothing in this subsection shall be construed to
17 require changes in policy in effect on the date of the enact-
18 ment of this Act.

19 (j) INDEPENDENT COST ESTIMATE.—The Inter-
20 agency Working Group, through the Administrator and
21 the Director of the National Science Foundation, shall ob-
22 tain within one year after the date of the enactment of
23 this section an independent cost estimate for operations
24 and maintenance of existing Federal assets of the System,
25 and planned or anticipated acquisition, operation, and

1 maintenance of new Federal assets for the System, includ-
2 ing operation facilities, observation equipment, modeling
3 and software, data management and communication, and
4 other essential components. The independent cost estimate
5 shall be transmitted unabridged and without revision by
6 the Administrator to Congress.

7 (k) INTENT OF CONGRESS.—It is the intent of Con-
8 gress that funding provided to agencies of the Council to
9 implement this section shall supplement, and not replace,
10 existing sources of funding for other programs. It is the
11 further intent of Congress that agencies of the Council
12 shall not enter into contracts or agreements for the devel-
13 opment or procurement of new Federal assets for the Sys-
14 tem that are estimated to be in excess of \$250,000,000
15 in life-cycle costs without first providing adequate notice
16 to Congress and opportunity for review and comment.

Passed the House of Representatives March 31,
2008.

Attest:

LORRAINE C. MILLER,

Clerk.